

## **REMARKS/ARGUMENTS**

This is Applicant's response to this Office Action dated November 21, 2006. Originally pending claims 1-7 have been canceled and replaced with claims 8-12.

The first independent claim (claim 8) relates to the apparatus of the present invention and combines two main features:

- the position of the oxygenating device, which is downstream from the pump and upstream in respect to the filtering device;
- the flow rate of the blood.

The new dependent claim (claim 9) specifies the presence of a single pump for moving the blood in the apparatus.

The second independent claim (claim 11) is directed to the method of treating the blood using according to the present invention.

The relevant dependant claim (claim 12) specifies the presence of a single pump for moving the blood in the apparatus.

All these features are described and supported in the original specification.

The new claims define novel subject matter, not obtainable from the prior art.

In Weitzel, the blood rate flow is between 10mL/min and 1000mL/min. This range is too great for having any real importance in a specific therapeutic use. In other words, substantially all machines for the treating of the blood have a blood flow rate that falls between 10mL/min and a value which is 100 times greater.

Respectfully, it is difficult and incorrect to assume that it is obvious to combine a particular value of blood flow rate (comprised between the value of 10 and a value 100 time greater) in the presence of an oxygenating device, where the oxygenating device is positioned downstream of the pump and upstream relative to the hemofilter.

Another important difference from the prior art is that in the present invention there is only one pump for moving the blood in the apparatus. This feature is very important because it reduces the hemolysis. The use of a single pump, according to the present invention, is allowed by the disposition of the hemofilter (filtering device) downstream from the oxygenating device.

Furthermore, a purpose of the hemofilter is to create a resistance to the blood flow, preventing the passage of O<sub>2</sub> bubbles through the patient.

In conclusion, the combination of all the described features is new and not obtainable from the prior art.

It is important to highlight that, according to the present invention, the oxygenating device is disposed, and it is acting, directly on the flow of the blood. In fact, in the example in the specification, in the apparatus 1 of the present disclosure, the path of the blood is defined by the catheter 9, the conduit 90, the portions 91, 92, 93, 94, 95 and the catheter 9'. In other words, the blood passes directly through the oxygenating device 7. These features are described in the description (paragraphs [0015] to [0018] of the published application) and in the drawings. In particular, thanks to this feature, the apparatus is advantageous in all cases in which the oxygen concentration of the blood requires supplementing, and especially in eliminating CO<sub>2</sub> in patients in which correct substitute respiration therapy is difficult to apply.

Accordingly, the Examiner is respectfully requested to consider the application and pass claims 8-12 to issuance.

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Respectfully submitted,



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